



No. 83-818

IN THE

SUPREME COURT OF THE UNITED STATES

October Term 1983

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JOSEPH L. DAUTREMONT, JR., and  
DELORES A. DAUTREMONT,

Appellants,

vs.

COUNTY OF VENTURA, a Body  
Corporate and Politic,

Appellee.

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ON APPEAL FROM THE COURT OF APPEAL  
STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT

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MOTION TO DISMISS OR AFFIRM

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QUESTION PRESENTED

Should your Court hear an appeal in a case challenging Article XIII A, section 2(a) of the California Constitution on equal protection grounds where:

1. Article XIII A, section 2(a) limits the value of real property for the purpose of ad valorem property taxation in California to its value as of March 1, 1975, or thereafter when the property is purchased, newly constructed, or there is a change in ownership;

2. This taxing system has no impact on real property outside California; and

3. Both the California Court of Appeal and California Supreme Court correctly applied the rational basis test and found that this taxing system has a rational basis reasonably related to its purpose and does not deny equal protection under the Fourteenth Amendment?

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MOTION TO DISMISS OR AFFIRM

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Appellee, the County of Ventura,  
hereby moves the Court to dismiss the  
appeal herein or, in the alternative,  
to affirm the judgment of the Court of  
Appeal, State of California, Second

Appellate District, on the grounds that the case does not present a substantial federal question nor does it present a substantial question not previously decided by this Court.

I.

OPINIONS BELOW

The judgment of the Superior Court of the State of California, County of Ventura, upholding the constitutionality of Article XIII A, section 2(a), is not reported. The Superior Court's Judgment and Memorandum of Intended Decision are included in Appellants' Appendix at pages 26 and 29, respectively.

The opinion of the Court of Appeal, State of California, Second Appellate District, affirming the decision of the Superior Court is not reported. A copy of said opinion is included as Appendix B hereto.

The decision of the Supreme Court of California denying a hearing herein is not reported. A copy is included in Appellants' Appendix at page 97.

The opinion of the Supreme Court of California in the case of Amador Valley Joint Union High School District v. State Board of Equalization, the opinion upon which the Superior Court and the Court of Appeal below relied, is reported at 22 Cal.3d 208 [149 Cal.Rptr. 239, 583 P.2d 1281]. A copy of said opinion is included as Appendix C hereto.

## II.

### THE CALIFORNIA CONSTITUTIONAL PROVISION INVOLVED

On June 6, 1978, the voters of the State of California adopted an initiative measure commonly known as "Proposition 13" or the "Jarvis-Gann Initiative."

The measure added Article XIII A to the California Constitution. This addition changed the method of ad valorem property taxation of real property in the State of California.

Section 2(a) of Article XIII A, the provision in question, limits the taxable value of real property to its value as of March 1, 1975, or thereafter its value when purchased, newly constructed, or when there has been a change in ownership. According to the California Supreme Court, section 2(a) substituted an "acquisition value" method of taxation for a "current value" system. (Amador Valley Joint Union High School District v. State Board of Equalization, supra, 22 Cal.3d at p. 235.) Ad valorem property taxes are therefore based upon the value of real property in 1975 or at the time

of its acquisition or new construction, whichever occurs later.

A copy of Article XIII A of the California Constitution is included as Appendix A hereto.

### III.

#### STATEMENT OF THE CASE

Appellants claim that section 2(a) of Article XIII A denies them equal protection in that it creates two classes of taxpayers. One class consists of those taxpayers who owned real property on March 1, 1975, and pay property taxes based on the value of their property as of that date. The other class is comprised of those persons who acquired or newly constructed their property subsequent to 1975, and pay taxes based on its value at the time of acquisition or new construction. Appellants contend that, by virtue of these classifications, tax-

payers like themselves, who acquired property subsequent to March 1, 1975, may be paying more taxes than owners of similar properties acquired prior to that date.

Appellants first raised this challenge to their taxes before the Ventura County Board of Equalization, the local administrative body charged with the equalization of assessments. That board sustained the assessment made pursuant to Article XIII A, section 2(a). Appellants thereupon brought this suit.

Trial in this matter was held on December 21, 1981, in the Ventura County Superior Court, the Honorable Marvin H. Lewis, judge presiding, sitting without a jury. Appellants' equal protection challenge was the only issue before the Superior Court. The court issued its Memorandum of Intended Decision on Decem-

ber 21, 1981, finding for Appellee on the ground that the equal protection issue had been resolved by the California Supreme Court in Amador Valley Joint Union High School District v. State Board of Equalization (1978) 22 Cal.3d 208 [149 Cal.Rptr. 239, 583 P.2d 1281]. The court entered judgment for Appellee on January 14, 1982. (See Appellants' Appendix, pp. 26 and 29.)

The Appellants appealed from the decision of the Superior Court to the Court of Appeal of the State of California, Second Appellate District, raising equal protection as the only issue. The matter was briefed by the parties and oral argument was held on April 28, 1983. In a unanimous decision filed June 23, 1983, the Court of Appeal affirmed the judgment of the Superior Court agreeing that the issue had already been decided

in the Amador case. (See Appendix B hereto.)

Appellants thereupon petitioned for hearing in the Supreme Court for the State of California. Appellants again raised only the equal protection issue. Appellants claimed that the California Supreme Court's analysis of this issue in Amador was cursory and urged the court to conduct a more "leisurely, serious, and genuine review of this classificatory scheme in light of Equal Protection." (Appellants' Appendix, pp. 83-84.) Appellants' Petition for Hearing was denied on August 17, 1983. (Appellants' Appendix, p. 97.)

Contrary to Appellants' assertion, the California Supreme Court did conduct a thorough analysis of the Equal Protection issue in its Amador decision. The court looked to federal precedent,

including the long line of decisions emanating from your Court on state taxation matters to control its scrutiny. Citing the decision of your Court in Kahn v. Shevin (1974) 416 U.S. 351, 356 [40 L.Ed. 2d 189, 193, 94 S.Ct. 1734], the California Supreme Court stated that so long as a system of taxation is supported by a rational basis, and is not palpably arbitrary, it will be upheld despite the absence of "'a precise, scientific uniformity'" of taxation. (Amador Valley Joint Union High School District v. State Board of Equalization, supra, 22 Cal.3d at p. 234.)

The California Supreme Court found a rational basis for California's method of taxation whereby real property is assessed and taxed at its value at acquisition or new construction rather than at current value. That court stated:

"This 'acquisition value' approach to taxation finds reasonable support in a theory that the annual taxes which a property owner must pay should bear some rational relationship to the original cost of the property, rather than relate to an unforeseen, perhaps unduly inflated, current value. Not only does an acquisition value system enable each property owner to estimate with some assurance his future tax liability, but also the system may operate on a fairer basis than a current value approach." (Amador Valley Joint Union High School District v. State Board of Equalization, supra, 22 Cal.3d at p. 235.)

Both the Superior Court and Court of Appeal below relied on the decision of the California Supreme Court in Amador because the issue raised, argued and determined in Amador is identical to the issue presented in this case.

IV.

ARGUMENT

A. APPELLANTS HAVE RAISED  
NO SUBSTANTIAL FEDERAL QUESTION  
NECESSITATING A DECISION BY YOUR  
COURT.

Article XIII A, section 2(a) of the California Constitution applies only to real property located within that state. It has no application to property located in any other state, nor is it applicable to personal property which may cross state lines. As your Court has recognized, the states are afforded a wide latitude of discretion in the enforcement and interpretation of their tax laws, particularly in the classification of property and the granting of partial or total exemptions from taxation. (F. S.)

Royster Guano Co. v. Commonwealth of Virginia (1920) 253 U.S. 412, 415 [64 L.Ed. 989, 991, 40 S.Ct. 560].)

The California courts, including California's highest court, have thoroughly examined the taxing scheme in question and have found that it has a rational basis and does not deny equal protection. That determination has been relied upon by California courts and California assessors in the assessment and taxation of all taxable real property in that state. Consequently, there is no reason for your Court to further review this matter or disturb this system of taxation.

B. APPELLANTS HAVE RAISED  
NO SUBSTANTIAL QUESTION NOT  
PREVIOUSLY DECIDED BY YOUR  
COURT.

Your Court has consistently held that the standard of review for state taxation matters is the rational basis test. This was recently reaffirmed in Western and Southern Life Insurance Co. v. State Board of Equalization of California (1981) 451 U.S. 648, 669 [68 L.Ed. 2d 514, 101 S.Ct. 2070]. Thus, a state's classification of property for the purposes of taxation will be upheld so long as the classification rests upon some ground or difference having a fair and substantial relationship to the object of the legislation and is neither capricious nor arbitrary. (Allied Stores of Ohio, Inc. v. Bowers (1959) 358 U.S. 522, 527 [3 L.Ed.2d 480, 79 S.Ct. 437].)

The case herein raises no new substantial issue of law. Article XIII A, section 2(a) has been scrutinized by the California courts which found that it has a rational basis reasonably related to its purpose. This taxing scheme classifies and taxes real property based upon its date of acquisition or new construction. The California Supreme Court held that such a scheme is both reasonable and fair in that it allows individual taxpayers to estimate future tax liability based upon the original cost of their property, rather than an unforeseen and perhaps unduly inflated current value.

(Amador Valley Joint Union High School District v. State Board of Equalization, supra, 22 Cal.3d at p. 235.) Such a taxing scheme is neither capricious nor arbitrary. Therefore, under the precedents established by your Court, Article

XIII A, section 2(a) of the California Constitution meets the equal protection test. Thus, there is no substantial question to be decided.

V.

CONCLUSION

For the reasons stated herein, this appeal should be either dismissed or affirmed.

Respectfully submitted,

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County of Ventura

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PROOF OF SERVICE BY MAIL

STATE OF CALIFORNIA )  
                         ) ss.  
COUNTY OF VENTURA   )

I, COLLEEN S. BOWLES, state:

That I am a citizen of the United States, over the age of 18, employed in the County of Ventura, and not a party to the within action; that my business address is Ventura County Counsel, 800 South Victoria Avenue, Ventura, California 93009; that on January 11, 1984, I served the within MOTION TO DISMISS OR AFFIRM on the interested parties in said action by addressing an envelope to each, with postage fully prepaid, in the United States mail at Ventura, California, addressed as follows:

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CLERK TO  
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STATE OF CALIFORNIA  
Division Six  
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4250 State Building  
San Francisco, CA 94102

I declare under penalty of perjury  
that the foregoing is true and correct.

Executed on January 11, 1984, at  
Ventura, California.

COLLEEN S. BOWLES

COLLEEN S. BOWLES